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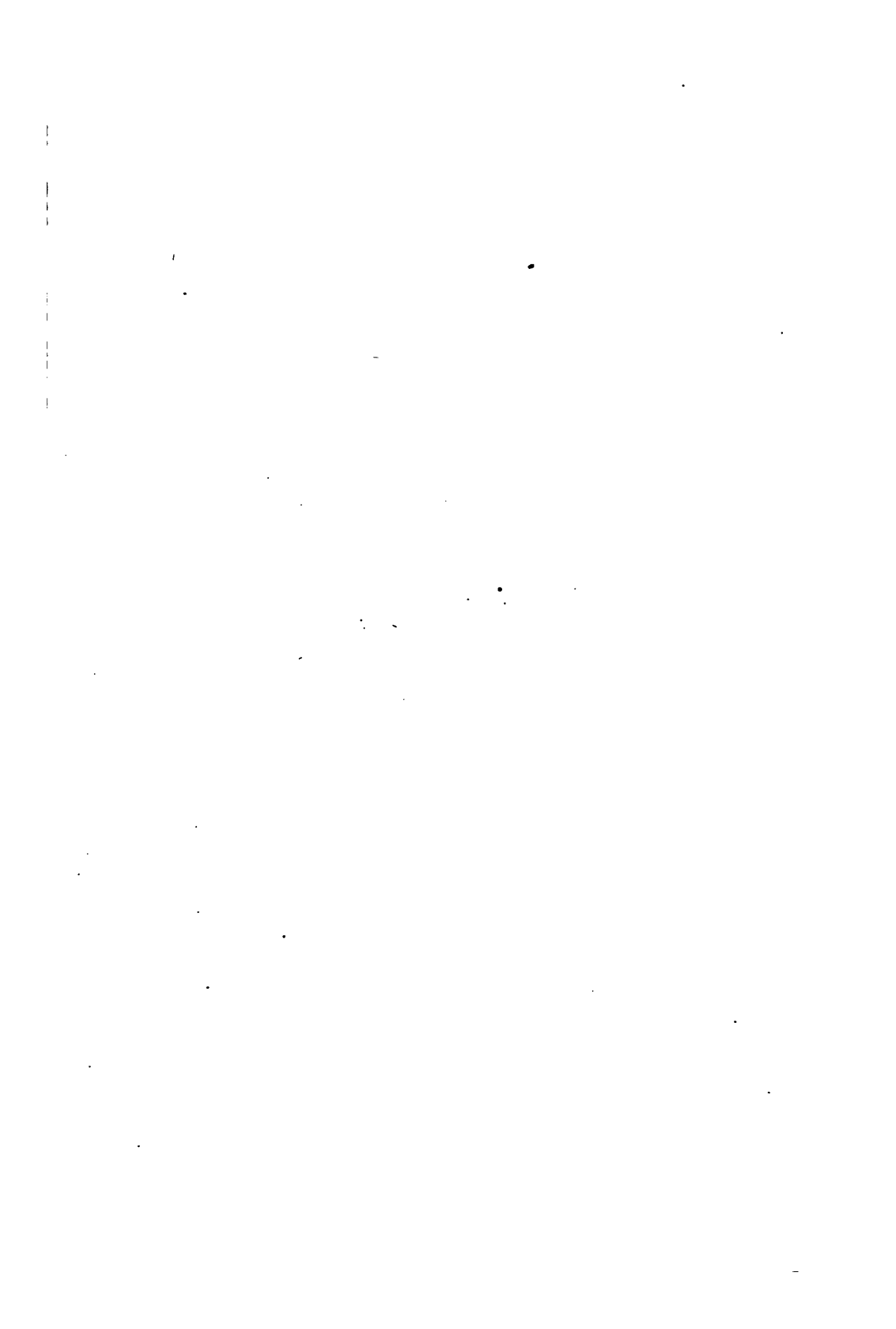
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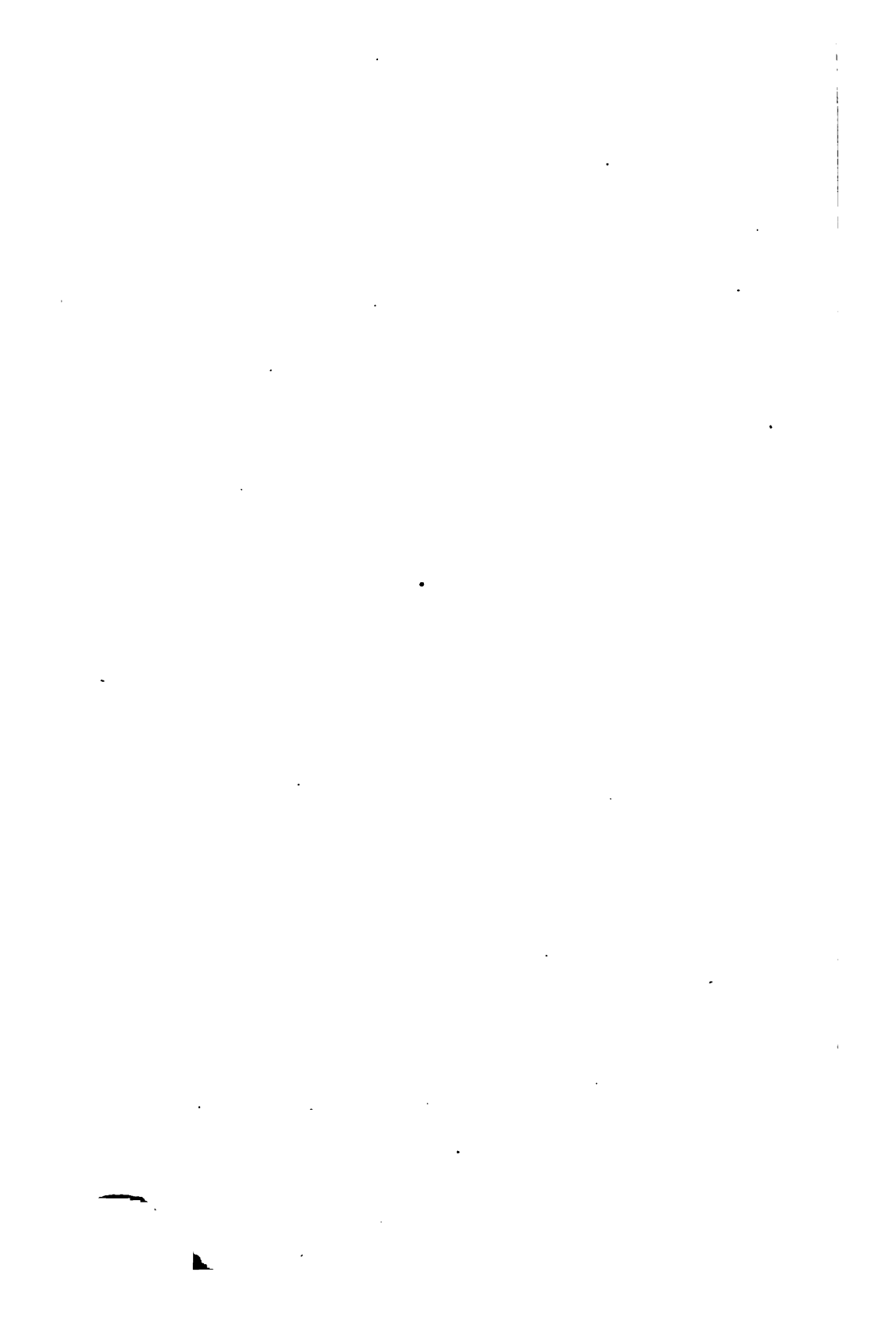




43. 44.







*The Advantages and Disadvantages of the Feudal
System.*

A PRIZE ESSAY

READ IN

THE SHELDONIAN THEATRE, OXFORD;

JUNE 28, 1843.

BY HENRY BOOTHBY BARRY,

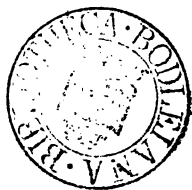
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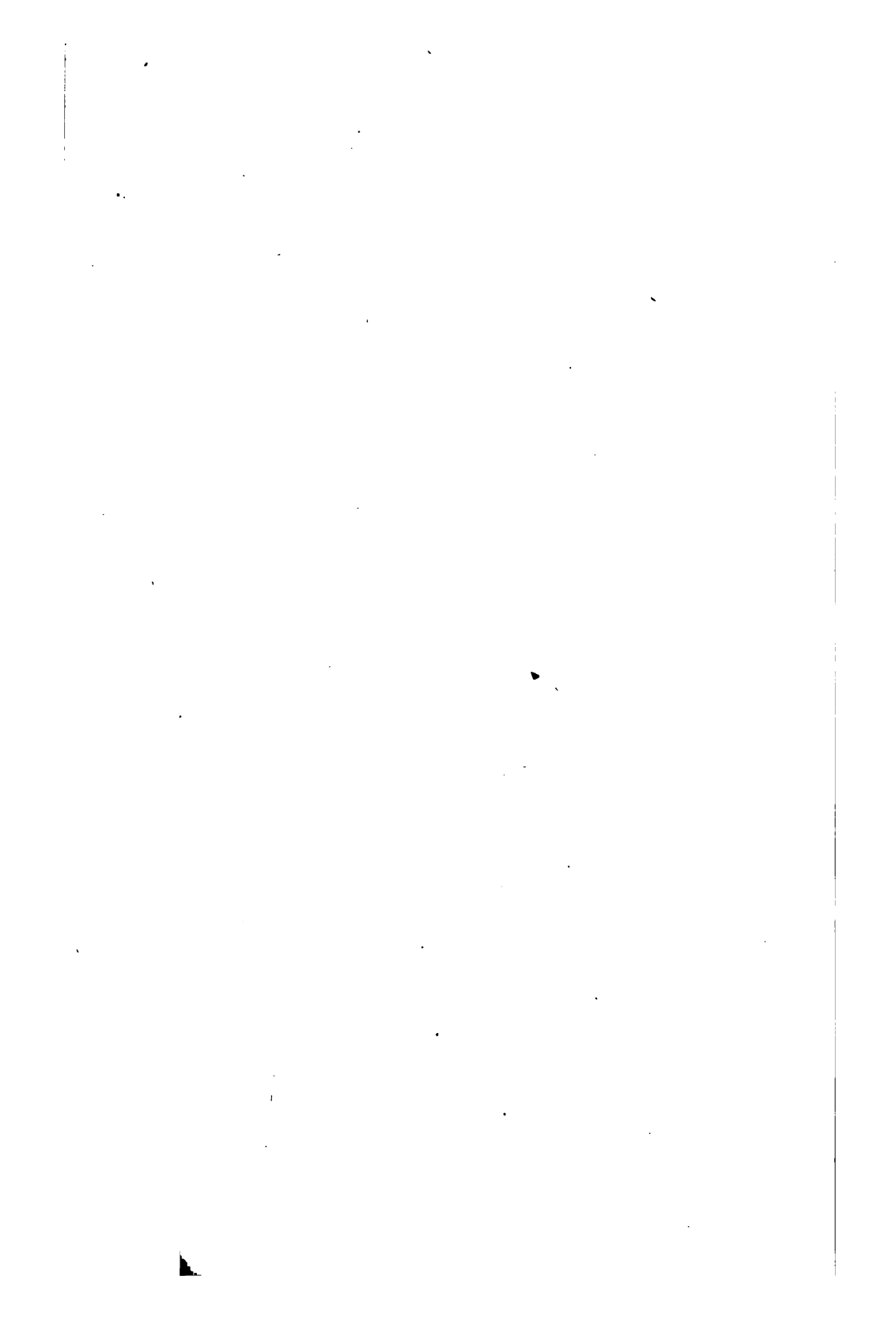


ARGUMENT.

VARIOUS opinions on the Feudal System—importance of the institution—the standard by which it must be estimated.

The Feudal System viewed in itself and in its own times—considered in its principles—as a form of society—in its particular effects, on natural defence, on social order, and the administration of justice, on the increase and diffusion of wealth, and on the social state of the population at large.—Some advantages separately considered—General estimate of its effects on its own times.

The Feudal System considered in reference to general civilization—difficulty of this view—cautions—how far an institution is good which is adapted to its own times.—Alleged beneficial effects of the Feudal System on general civilization—beneficial consequences of its decay—general view of its influence on the progress of society—notice of important questions—concluding remarks.



THE ADVANTAGES AND DISADVANTAGES OF THE FEUDAL SYSTEM.

Ces loix qui ont fait des biens et des maux infinis

Montesquieu, Esprit des loix. liv. xxx. c. 1.

No political institution has been so variously represented as the Feudal System. Some have viewed it as an almost ideal form of society, which afforded scope for the exercise of the best feelings of human nature, and in which men were influenced, not by considerations of interest, but by sentiments of honourable obligation. Over this, as over other past institutions, "poetry," to use the expression of Niebuhr, "has flung her many-coloured veil:" but it is not merely in writings of fiction that the illusion it has produced may be discerned. The beautiful theory of feudalism thus presented, has almost imperceptibly impressed itself even upon men of practical abilities, who in serious writing have drawn pictures of "the dignified obedience,"^a of the "manly sentiment," and "heroic enterprise" of feudal times. Yet these representations, though they have indeed some basis, have been greatly overdrawn, and seem, on strict investigation, to rest on little historical authority. ^b"Like enchanted castles, they appear to be something, they are nothing but appearances; and when we examine the foundations on which they lean, the charm is dissolved, and they

Various
opinions on
the Feudal
System.

^a These are the actual expressions of Burke, in his Work on the French Revolution; but reference is not so much made to any particular passage, as to the general tone of eulogy in which he describes feudal times.

^b Bolingbroke. Study of History, letter i. ad fin.

vanish from the sight." There are also writers,^c particularly those of the last century, who, taking a very different view, have stated that the Feudal System occasioned general anarchy; and while it stripped the crown of almost every prerogative, reduced the people to a state little better than slavery.

The Feudal System is described by others^d as having done infinite good and infinite mischief, and as having been productive of the most opposite effects,—of rule with a tendency to anarchy—of anarchy with a tendency to order and harmony. But of late years, a kind of revulsion of opinion has taken place; and several writers of the present day do not so much consider the effects of feudalism upon its own times, but rather, in shewing its merits, direct our attention to its influence upon the progress of society.

Importance
of the insti-
tution.

It is difficult to decide upon these different opinions, and to estimate the real advantages and disadvantages of the Feudal System. Yet to do so is of the utmost interest; "for^e this institution makes a very important part of the history of mankind," and, singular in its character, stands alone and unparalleled in the annals of the world. Attempts have been made, but without success, to prove that it resembles several institutions of antiquity. "Thus," to use the words of Sir Henry Spelman, "may fancy couple the remotest of things." The Feudal System occupies the most prominent place in the progress of events in Western Europe after the dissolution of the Roman Empire; and the institution itself, although it had long begun to decay, has been but recently removed. Less than two hundred

^c Robertson. ^d Montesquieu, *Esprit des loix*. liv. xxx. chap. 1.

^e Expression of Dr. Johnson's. Boswell's *Life*, ii. 191.

^f Feuds and Tenures, chap. xi.

years have elapsed since its formal abolition in England ;^a in Scotland it continued till the middle of the last century ; and in France it was only destroyed when all other institutions perished with it. Some countries,^b even in the present day, still formally adhere to many of its customs, and continue to resist their abolition. That vast structure, which once embraced within it the whole of Western Europe, has at length fallen : yet its remains lie not in scattered ruins ; but, like the temples of Athens, have been built up into the very fabric of modern civil constitutions. For the results of the Feudal System have so pervaded the whole frame of society, that it is difficult to find any important laws, customs, or institutions which it has not more or less affected. To consider, therefore, the advantages and disadvantages of feudalism, is not only the investigation of a subject of great historical importance, but also an inquiry of present and almost of personal interest.

But by what standard are the merits of the Feudal System to be estimated ? An institution may be viewed, Standard by which it must be estimated. either in itself and in its own times, or with reference to its influence upon the progress of society. Although no complete estimate of the merits of an institution can be formed without taking into account its effects upon general civilization, yet it must be viewed alone to discover in what manner it produced those effects. For by the dispensations of Providence, the eventual good of society is promoted, as well by present evils as by present benefits. Yet, as far as good and evil appear to result from man's agency and support, the one must be approved of, and the other condemned. The Feudal System, considered in itself, may be viewed either in its principles, or as a form or con-

^a 2. Car. II. c. 24.

^b Canada.

stitution of society, or in its particular effects upon the social state of its own times. In its principles: for institutions as well as individuals must proceed upon certain principles; and it is upon their character that the durability and efficacy of an institution in a great measure depend. As a form of society: for feudalism was not only a great institution, but also became a system of social union; which, as it is contradistinguished from all other forms of political society, deserves to be considered with particular attention. In its particular effects: for it is by their nature only that a judgment can be formed of the actual influence of the principles and constitution of feudalism upon the state of society. In regarding the relation of the Feudal System to the progress of society, it must be inquired whether it promoted or retarded the advances of civilization. By civilizationⁱ is here meant, both the amelioration of society at large, and the improvement of man individually. After having viewed the Feudal System in this manner, it will be necessary to state the general result; and from a comparison of its advantages and disadvantages, to decide as well upon its nature and effects when considered in itself, as when regarded in-reference to the progress of society.

The Feudal System viewed in itself and in its own times.

On examination, it will be found that the Feudal System practically proceeded upon erroneous principles. One of these principles was the substitution of an obligation, founded upon a tenure of land, for that duty which a subject naturally owes to his sovereign; another, the annexing to some subjects that homage and that obedience which are due to the supreme power alone. That this was the case appears from the fact, that the immediate tenant only held

Considered in its principles.

ⁱ Guizot's Civilization in Europe, lecture i.

himself bound to obey his supreme lord to the extent of the conditions on which he held his fief; and considered that he was released from obedience to his sovereign, and even entitled to wage war against him, whenever the conditions of the agreement were not performed on his part. It may, indeed, be objected, that as the vassal and feudatory were at first distinct, the vassal was bound to obey his lord by another obligation besides that which arises from the tenure itself. But even granting that the feudal tenure and vassalage were at first separate, which appears to be doubtful, it is plain that the obligation to obey the sovereign was eventually considered to arise from the agreement on which the tenure of land was held. This connection between the subject and the sovereign is perfectly in unison with the spirit and tenor of the barbarian laws; which, as they annexed fines to the commission of crimes, offered a compensation for the performance of duty. Even admitting that the relation between the sovereign and his subject was at first political as well as feudal, it in the course of time certainly became solely feudal. For society cannot be conducted upon two different principles affecting the same points. The introduction of a new ground of action presupposes the defect of the existing principle; and one must weaken, if not eventually destroy the other. This substitution was indeed useful at first, as forming a stronger bond of union than that which previously existed; but its establishment, as it kept out of view, if not suppressed, great social principles, was wrong in itself, and also productive of disastrous effects. The obligation of a citizen to obey the head of the state to which he belongs, is a simple and natural principle, and upon it states and governments are at first founded, and

afterwards proceed. Any exchange for this principle, or even the adoption of any bond which may absorb or diminish its force, however honourable in appearance and beautiful in theory, ultimately fails of effect. They are substitutions, in a great measure, of feeling or of interest for duty, and like them are consequently not of a permanent character. To those who at the time promoted and defended the prevalence of the Feudal System, as far as any institution may be said to be designedly promoted and defended, this superadding of obligations, no doubt, appeared to confer an additional strength on the constitution of the state. And it cannot be denied, that the tenure of land on common grounds of right, as forming a common property, tended to unite the privileged orders of feudal society. But what is now considered, is the effect produced by this additional obligation on the obedience paid by the subject to the sovereign, and consequently upon the promotion of civil order and tranquillity. This effect, as appears from the consideration of the nature of the feudal obligation and its consequences, was very prejudicial. Such was, and ever will be, the result of a faithless attempt to strengthen the bonds of natural duty by the ties of artificial obligation. So strong, and yet so delicate, are the feelings of duty in the human heart, that the slightest suspicion of their power weakens their influence, and a total disbelief of their existence almost destroys them.

The most striking feature of the Feudal obligation is, that it indicates a direct compact between the immediate tenant and his supreme lord. The assertion that there exists a general compact between the sovereign and his whole people, has been by many strongly condemned; and its origin has been vainly attempted to be found in the

early stages of society. But if the statement of the existence of a general compact has been thought dangerous, how much more pernicious must appear the actual establishment of many private contracts between the immediate tenants individually and their sovereign. The conditions of a general compact are not often broken; and even when they are broken, do not at once occasion the violation of the peace of a nation. For the infringement of the rights and privileges of the community, as it may not immediately affect individual interest and feeling, but rarely endangers the tranquillity of society. But a direct contract with an individual, on certain understood conditions, is the personal and immediate concern of that individual; and the infringement, or even the apprehended or fancied infringement of those conditions, will lead at once to resistance on his part. Thus the respect due to the sovereign, as the personification of the state, was changed into that limited and distrustful regard paid by a man to his superior in a matter of bargain and of mutual compensation. Thus was promoted the custom of private war against the sovereign, and of individual resistance to authority. It is strange, that the existence of private war should have been an object of eulogy to some modern writers. It has been stated, that this practice was one of the chief causes of the prevalence of the notions of personal independence, and of civil liberty. But it will be found, that the advantageous results of this practice has been overrated, while its dangerous tendency has not been so prominently put forward; and that its advantages are not sufficient to excuse its erroneous character and pernicious consequences. The custom of private war tended, indeed, to animate with feelings of freedom the immediate tenants of the crown; but was only very indirectly

and partially productive of personal independence among the vassals at large. The privileges of the *arriere* tenants, though apparently analogous to those of their lords, seem to have had in a great measure a mere nominal existence. For the authority of the crown over lords who lived at a distance, and who possessed the means of resistance, was necessarily much less than the control of those lords over tenants among whom they lived, and who were comparatively powerless. The opposition of the head tenants to the sovereign is often mentioned in history; but there are few if any instances on record, of the resistance of *arriere* vassals to their immediate lord. Thus whatever influence the example of the great lords may have had upon the notions of their vassals, the custom of individual resistance, and consequently personal independence, its advantageous result, appear to have been confined to the immediate tenants of the crown. This custom is wrong in itself, because the principle of private resistance can never properly be recognised in any state. Many indeed maintain as a right the armed resistance of the whole community; but few, if any, have asserted the right of individual opposition to authority, and of private war; and such claims are condemned by the practice of every state. Their pernicious consequences are evident, in those disorders of society, and in that turbulence of powerful men, which are the worst features of feudal times. The next wrong principle in the Feudal System, was the annexing to some subjects that homage and that obedience which are due to the sovereign power alone. The *arriere* tenant held lands of his lord by the same tenure as that by which the lord held from his sovereign, and was bound to perform the same services. On bended knees subject knelt, ungirt and with uncovered head, before fellow-

subject, and swore that he was from that day forth his man of life, of limb, and of earthly worship. There was indeed a clause in the oath saving the faith due to his sovereign lord the king; but this was an exception that rarely limited the influence of the lord over his immediate vassals. Now it is wrong to invest any subject with that authority which is the prerogative of the sovereign power alone. The same obedience when paid to many, loses its hold upon the mind, and may create conflicting obligations. It has never been deemed slavery to pay allegiance to that authority to which the greatest as well as the meanest citizen must submit; but it is degrading, and an injury to the highest power in the state, to pay that allegiance to a fellow-subject. The influence of the sovereign over his subjects was thus weakened; for it was only in England, where the preponderating power of the crown gave the king greater authority, that the *arriere vassal* swore fealty also to his supreme lord. This oath did not, however, give the king his natural and legitimate control, but only a concurrent power with the immediate lord. Whenever the services due from the vassal to his immediate lord came into collision with the fealty he owed to his sovereign, the former is found to have almost uniformly prevailed. Hence the subfeudatory followed the standard of the baron, almost as readily when lead against his sovereign as when engaged in his service.

That institution which vested in the crown the property of all the land in the kingdom, although it appeared to give the king an overwhelming power, tended in reality to diminish his legitimate influence. For while it represented the sovereign as the supreme landholder, it superadded to the relation of king and of subject many obligations re-

sulting solely from the feudal connection, the infringement of which, as was commonly and practically held, absolved the tenant from his allegiance. From the history of feudal times it appears, that the lords had not only the power of rebelling; but that also, by alleging some breach of the feudal relation, they readily found a convenient pretext for their conduct.

The principles, then, on which the Feudal System was founded, and on which it proceeded,—the substitution, practically and eventually, of the relation between feudal lord and vassal, for that between sovereign and subject, and the virtually paying to some subjects the allegiance due to the sovereign power alone,—are erroneous in themselves, and disadvantageous in their effects. These principles, as might be shewn by a reference to the state of society at the period, had an influence external to the institutions to which they belonged. But this view, as it is not immediately connected with the merits of the Feudal System, cannot at present be entered upon.

Feudalism
considered
as a Social
System.

The Feudal System, viewed as a form of society, is the next subject of consideration. For it must not only be regarded as a great institution, but also as a regular social system; since to subject to itself all the members of the state was at first its natural tendency, and what it afterwards accomplished. So that eventually, to use the words of some writers, the feudal was substituted for the political form of society. The Feudal System rather resembled a military establishment, than any known civil institution; and was, in fact, originally the organization of an army, stationed in companies throughout the country, and ranged under its proper officers. The substitution of military control for civil government, as it made the whole of the

population available for national defence, was at first perhaps advantageous to the new barbarian countries, subject as they were to sudden attacks. But this form of society, which could only be justified by immediate necessity, remained, when the occasion for its existence had ceased. So that even had the ideal theory of feudalism been ever realized, the political constitution of the state would, without any sufficient cause, have been exchanged for the organization of an army. But the system contained within itself a natural tendency to degeneracy. The feudal lord had, from immediate command and from local connection, an almost exclusive and independent control over his military tenants. Thus the power of the sovereign was weakened by the comparative independence of his immediate tenants; and his connection with the great majority of his subjects was almost destroyed. While in a military form of society, exclusive honour was paid to the profession of arms, the liberty of the rest of the community gradually disappeared. In such a social system, every citizen was a soldier; so that all those who necessarily applied themselves to agriculture and the arts were at first despised and treated as inferiors, and at length sank into a condition little better than slavery.

Feudal society was composed of a number of almost independent and separate powers, in a state of opposition and conflict. Districts distinct from each other appear scattered over the country, each subject to its own feudal lord, and possessing its own civil and military jurisdiction. Many of the lords had the privilege of coining money, and claimed the right of private war. These districts seem to have been almost regarded as foreign countries. ¹If a

¹ Robertson's Charles V., note 20. F F.

person removed from one province in a kingdom to another; he was bound, within a year and a day, to acknowledge himself the vassal of the baron in whose territory he had settled. The neglect of this was punished by a penalty, and further neglect by a confiscation of goods. The most striking features in such a system are the want of central power, and the absence of national union. These two defects, the natural results of a social state composed of so many parts little under the control of the sovereign power, must be particularly noticed, as they appear to have been the chief causes of the ill effects of feudalism, and also the principles of its decay. The disadvantageous effects of the Feudal System may be mainly traced to the separate possession of power by many almost independent members of the community, and to the state of division caused by distinct districts and local associations. It was only by the acquisition of power by the state, as distinguished from its individual members, and by the formation of national union, both of which feudalism long obstructed, that the foundations of the feudal system were gradually undermined. On the importance of central power and of national unity, it will be necessary to make a few remarks.

The necessity of the existence of an efficient central power appears, from the consideration, that it only tends fully to accomplish what seems to be the purpose of all society, the procuring by combination those objects which each man cannot himself individually obtain. There must be some power in a state, wherever that power be vested, which, rising above local interests, and seeing beyond local views, perceives what is good for the society at large. And it is only by such a power that measures for the good of the community can be carried into effect: for there is

scarcely any plan for the general benefit, which is not temporarily opposed to local interests. The presence of this power is one of the chief causes of the flourishing condition of many of the smaller states of antiquity. And it is to its absence and gradual decay that the weakness of many countries, and the dismemberment of great empires, may be traced. And though it may be objected, that local divisions are useful as a check to central power, and as a protection to liberty, yet the efficiency of this power ought not to be always obstructed, because it is sometimes liable to abuse. A distinction must be made between proper checks, and those which weaken and obstruct the energy of the power they may oppose, especially when the efficient exercise of that power is necessary to the well-being of the community. The checks presented by the local divisions under the Feudal System, were decidedly of the latter kind. It may be stated, that the Feudal System, from its resemblance to a kind of federal union, combined, to a certain extent, internal independence with national efficiency, and was, at all events, well adapted for defence. Yet a federal union is in general best adapted for defence only on some extraordinary emergency, which, by combining the energies of its several parts, and by rousing a common feeling, makes it for the time one united nation.

The same causes which obstructed the influence of central power, also tended to prevent the formation of national union. Local divisions, comparatively independent of the central government, are great obstacles to the rise of common interests, and to any general communication of opinions and feelings. It is remarkable to what extent the advantages of the Feudal System were enjoyed by each part of society separately, and not by the community at large.

Liberty, for instance, as far as it existed among the higher classes of feudal society, was not a common property, but was vested in each part of the community. It prevailed, too, rather by separation than by combination; for the formation of a general union was incompatible with the existence of the independent parts of the Feudal System. Thus what has been called the great advantage of the Feudal System, and what was undoubtedly, to a certain extent, an advantage, was so misplaced, as to be productive of the worst consequences. The elements of liberty, which feudalism preserved in the possession of but few, were individual rather than social; and were so scattered over separate parts of a country, and in such a state of conflict and disunion, that the value of their preservation can scarcely compensate for the insecurity and disorder they produced. The same features of separation and of particular interests may be seen in the disposition of judicial jurisdiction, and of the other advantages of social union. Such a state of society also hindered the spread of common opinions and feelings; for mutual interests are the chief causes of such a communication. Thus was obstructed the progress of public opinion, which, though sometimes perverted, is of great importance, as generally exercising a salutary control over private and public conduct. Feudalism also checked the influence of public opinion, by at first gradually destroying the middle class, and by afterwards preventing their rise; for it is by the existence of an independent middle class, that public opinion is rendered most efficient. Feudalism at first destroyed the middle class: for, by the disadvantages to which they were subject, it gradually obliged the allodial proprietors to become feudal tenants; and afterwards prevented their rise, by forbidding the alienation of land,

and by its tendency to check the progress of towns. This obstruction to the rise of a middle class is also in many other respects injurious to society. Among many other advantages of the existence of such a class, it necessarily diminishes the number of the lower orders, facilitates the means of rising in society, and establishes a gradual connection between the highest and the lowest members of the state. Against this view of feudalism it may be objected, that the limits of countries ought not to be regarded as natural and necessary; and that, therefore, no institution ought to be condemned because it tended to disunite them. It may be said, that feudalism must not be estimated by the notions of our own times respecting the predestination¹ of a people to political union, and the necessary natural unity of every state. But it must be remarked, that what is here insisted upon is not the tendency of feudalism to prevent those unions of states which form the countries of the present day, but its tendency to cause disunion in any state in which it exists. It is here observed, that the division which it produces is injurious to any country, whatever be its limits or extent; and the necessity of national unity to promote the efficiency, and to carry out the objects of social combination, is maintained not as a notion of the present time, but as what it appears to be in fact, a fixed political principle. The Feudal System, therefore, considered as a form of society, seems to have been very defective. And its prominent faults were the substitution of a military organization for the civil constitution of society, and its great want both of central power and of national union.

To perceive the general influence of the Feudal System upon the state of society, it will be necessary to consider

Particular
effects of
the Feudal
System
considered.

¹ Schlegel's Philosophy of History, lecture xiii.

some of its principal effects; and in remarking upon them, the main object will be rather to notice their general character, than to enter much into detail. The immediate results of the Feudal System may be divided into—its effects upon the external power, and its influence upon the internal condition of a state. Of the effects of the Feudal System upon the external power of the state, its influence upon military strength and the efficiency of national defence, will be now considered; the chief effects of feudalism upon the internal condition of a country, are its influence upon the administration of justice and social order, upon commerce and the diffusion of wealth, and upon the social and political state of the population at large.

Effect on
military
strength
and na-
tional de-
fence.

The Feudal System, by creating a combination for mutual defence, did indeed appear to have at first secured the original object of its establishment. Its advantage in this respect may however be too highly estimated, unless it be remembered, that it did not originally present the only means of defence. For by the German customs, as prevailing after the conquest of the Roman Empire, the "duty of freeholders to serve in war seems to have been acknowledged, and readily performed. There were many companies of these allodial proprietors, who, being more under the control of the central power, appear to have formed a more efficient force than did the bands of vassals led by the feudal lords. Yet feudalism was not conducive to military strength. Its army was a militia; which, in time of war, took the field for a limited period, under the command of the same chieftain whom it was accustomed to obey in time of peace. Such a force being an attempt to com-

^a "The obligation of bearing arms in defensive war was peculiarly incumbent on the freeholder, or allodialist."—*Hallam's Middle Ages*, c. ii. p. 11.

bine the occupation of a civilian with the employment of a soldier, was comparatively inefficient, and much inferior to a body of regular troops. Too free for soldiers, yet too submissive for citizens, the feudal retainers appear to have united in themselves many of the disadvantages, with few of the advantages of a military body. With much of the independence of citizens in active service, with much of the obedience of soldiers at home, they were neither well fitted for an army in the field, nor for a body of free subjects. Such was the effect of the confusion of two characters properly distinct, and of an attempt to purchase the comparative independence of the soldier by a corresponding submission in the citizen. Such a system obstructed improvements in the art of war, most of which were made after the establishment of standing armies, by which the exclusive attention of a body of men was directed to the study of military tactics. But such improvements, as they give a civilized country a great advantage over an uncivilized enemy, and eventually tend to diminish the occurrence of war, must be regarded as generally beneficial to society. The feudal institutions were not only themselves little calculated to promote military strength, but also prevented the organization of an efficient native force. To serve for pay those whom they were considered to follow from a feeling of honourable obligation, and instead of a service performed with comparative ease and limited in its duration, to submit to the permanent discipline and hard toils of the hired soldier, would have appeared alike burdensome and inconsistent with the character of the feudal warrior. The formation too of such a force, at a time when feudalism was completely established, as it would have necessarily dissolved the connection between certain vassals and their lords, could

not have been attempted without undermining the foundations of the system itself. In feudal times, there was no extensive establishment of hired native troops under the direct command of the sovereign, and similar to modern armies. Some notices indeed occur of vassals being kept in service after the expiration of the usual period, at a certain stipulated rate of pay. But this practice was, as has been observed, inconvenient to the tenants; and the sovereign would most probably prefer securing the aid of an efficient body of mercenaries, to merely prolonging the time, without altering the nature of the service of his feudal adherents. It is also well ascertained that this custom did not prevail to any very great extent. The establishment of paid native forces, whether regarded as the cause or as the effect of the decay of the Feudal System, is evidently inconsistent with it. This defect in feudalism led to the employment of foreign mercenaries; a measure ultimately as prejudicial to the state, as it was at first temporarily successful. It was well for the independence of feudal countries, that they had to contend with no power whose armies were composed of regular soldiers. Had such been the case, they must, in all probability, unless they had altered their system of warfare, have been reduced to subjection. For unless when animated on an extraordinary emergency by some strong common feeling, or so practised in service as to be for the time on the footing of regular troops, a militia has been invariably found to be inferior in action to a standing army. This has been shewn^a by reference to the event of such contests as are recorded in ancient history. The same fact is also attested by nearly all the battles of modern times: as, for instance, by the

^a Adam Smith's *Wealth of Nations*, book v. chap. 1. part 1.

fields of Cressy and Poitiers, where the paid forces of Edward were opposed to the army of Philip, which was almost entirely composed of feudal retainers. It was well for the present state of society and for the cause of civilization, that the feudal countries of the West of Europe, after they had attained a certain degree of improvement, were not attacked by a general barbarian invasion. For nations which depend upon such a means of defence as local bodies of militia, in proportion to their advances in wealth and civilization, become more exposed to the cupidity and less able to resist the attacks of barbarian hordes. The natural superiority of the militia of a barbarian people over that of a civilized country is in itself apparent, and has been proved by historical testimony. If with such a system of defence as feudalism afforded, the comparatively civilized countries of Europe in the middle ages had been suddenly attacked by such barbarian tribes as still prevail in the North of Asia, they must, in all human probability, have suffered, from the same internal cause, the fate of that empire which they themselves overthrew. It is only from the existence of standing armies that we have good ground for supposing that the civilized nations of modern times will not share the ruin of the great empires of the ancient world, and fall by the attacks of barbarian hordes.

The effect of the Feudal System on social order and the administration of justice, forms the next subject of consideration. Among the Germans, each chieftain was also the judge of his followers; and after the settlement of the Northern races in Western Europe, judicial authority was commonly combined with military power. The Feudal System continued this practice, and there were conse-

Effect on
social
order and
the admini-
stration
of justice.

quently as many local courts in various parts of the country as there were great feudal lords. The immediate judicial authority of the sovereign was at first limited to his own domains, and he had little if any control over the courts of his barons. In estimating therefore the effect of feudalism on the administration of justice, it is necessary to consider a judicial system composed of a number of comparatively independent local courts, and to view its influence upon social order. The few advantages of such a system do not seem to be compensated by its many disadvantages. A local court, whatever be its mode of procedure, has this advantage, that its decision is often immediate, and is consequently attended with less expense and trouble. The peculiar expenses of the feudal law must however be considered, which, independently of fines, amounted in some places to the fifth of the property in dispute. Another advantage of the baronial jurisdiction, though rather beneficial in its results than in its immediate effects, was the summoning of vassals to attend and take part in the decision of cases. In these respects, then, the institution of the feudal courts seems to have been beneficial. But when it is considered that this private and separate jurisdiction was exercised, not in the name of the sovereign or of the community at large, but claimed as a right by each feudal lord, a different conclusion may be formed. The decision of each local court was at first final, and no appeal could be made from it to the sovereign. The appeals which were introduced after the progress of some time, were limited to the refusal or to the delay of justice; and, on account of the great influence of the lords, could not have been

* Sometimes even to the third. Du Cange, *voc.* *Fredum*. As crimes were punished by fines, this applied to criminal as well as to civil cases.

of much practical effect. So independent was the jurisdiction of these courts over their several districts, that the royal judges were in many cases absolutely prohibited from entering them. Even in England, where the regal power was for some time much greater than in any other country, the king's judges could not, without a formal consent, enter a county palatine. In Scotland, where the Feudal System had more scope for developement, a feudal lord could, by the privilege of repledging, stay any judicial proceedings on the part of the crown, and could even punish his vassal for obeying a royal summons. This variety, and this independence of local courts, often made the attainment of justice very difficult; as a vassal could only be tried in his own court, and was protected by his lord against any other jurisdiction. Although an institution ought not generally to be judged by its abuse, yet it may be so judged when that abuse appears to be a likely and natural consequence. Of this kind was the injurious effect of committing great judicial power to the feudal lords; a power which they seem to have frequently perverted. For instance, we find in Spelman,^p that it was a common practice for lords of castles to imprison men at pleasure: a practice which, he observes, had not been even in his time altogether abandoned. But perhaps the most injurious effects of the feudal jurisdiction were the variety of codes which prevailed, and the consequent absence of one known and general law. Different parts of the same country were subject, some to the Roman law, and others to the diversified rules of barbarian codes. It is even said, that a man had the liberty of choosing by what law he would be judged.

^p Spelman on Parliaments.

This is, however, most probably a misstatement, originating from the different procedures of the feudal courts, and from the lords possibly having the power of deciding by what rules their courts should proceed. But what was still worse, was the prevalence of local customs instead of written laws; a practice at first the effect, and afterwards in its turn one of the causes of the ignorance, even of the most elementary parts of education so remarkable in the middle ages. Independent local courts prevented the establishment of one universal mode of procedure, not only by their very existence, but also by the amount of knowledge required on the part of the courts to apply a general law. That these courts did not answer the ends of justice, is affirmed by many writers, and appears from several considerations. It was usual to receive the statements on oath of the parties themselves. That this often led to the perversion of justice seems to have been felt at the time: for statutes were made, requiring these statements to be corroborated by the sworn testimony of others; and subsequent ordinances were issued, directing the oaths to be taken in the most solemn manner. Successive laws,¹ each denoting the inefficiency of that which preceded it, required persons to swear over the tombs of the dead, over the cross, over an altar, over many altars in succession, and after having received the Holy Communion. Judicial combats, and all other appeals to the justice of heaven, although no doubt in consonance with the spirit of the age, were at least promoted by the uncertainty and injustice of existing human courts.

The liberty of challenging even a judge, and the pre-

¹ Du Cange in voc. *Sacramentum*.

ference of ecclesiastical to civil jurisdiction, certainly shew the opinion entertained of feudal decisions. The two cases in which the right of appeal was at length obtained, the denial or the delay of justice, deserve particular notice, as they seem to imply that the courts were not always open to all applicants. The celebrated declaration in *Magna Charta*, "*Nulli vendemus nulli negabimus aut differemus rectum aut justitiam*," is, as has been observed, a standing testimony of the injustice of times which called for such a protest. That crimes and disorders very generally prevailed, and often went unpunished, may be seen in the history of the times, and is confirmed by the singular practice that the judges, called "*centenarii*,"^r were required to swear, that they had neither committed nor abetted any robbery. The Church endeavoured to prevent what the civil magistrate had been unable to repress. Councils were held, in which, before the bodies and relics of saints, robbers and violators of the peace were publicly condemned. Wretched must have been the state of society which seemed to call for that dreadful anathema^s which issued

^r Robertson's *Charles the Fifth*, note 29. F. F.

^s Anathema in prædones. Auctoritate omnipotentis Dei Patris et Filii et Spiritus sancti, interveniente, et adjuvante beata Maria semper Virgine, auctoritate quoque ac potestate Apostolis traditâ, nobisque relicta, excommunicamus anathematizamus, maledicimus, damnamus et a liminibus sanctæ matris Ecclesiæ separamus vos Remensium prædonum, auctores factores, cooperatores, fautores et a propriis dominis, rerum suarum sub nomine emptionis abalienatores. Obtenebrescant oculi vestri, qui concupiverunt; arescant manus quæ rapuerunt; debilitentur omnia membra, quæ adjuverunt. Semper laboretis, nec requiem inveniatis, fructuque vestri laboris privemini. Formidetis, et paveatis, à facie persequentis et non persequentis hostis, ut tabescendo deficiatis. Sit portio vestra cum Juda traditore Domini, in terra mortis et tenebrarum; donec corda vestra ad satisfactionem plenam convertantur. Hic autem sit modus plænæ satis-

from a French Council in 988. It must be particularly observed, that the Feudal System not only occasioned such a number of independent local courts, but that it was also essentially opposed to any alteration of jurisdiction. For since the judicial authority of the lords not only increased their influence, but was also a great source of revenue, any interference on the part of the crown was regarded as an invasion of their interests as well as of their rights. The statutes of St. Lewis, though bearing the appearance and character of a general code, were only of force in his own domains; and instances are on record of vassals having been severely punished, and even put to death by barons, for obeying the royal summons.*

Effect on
the in-
crease and
diffusion of
wealth.

The influence of the Feudal System upon the increase and diffusion of wealth," consists of its effects upon agriculture, and upon manufactures and commerce. For it is either upon the produce of land or upon the profits of trade, or upon both, that the wealth of a country depends. That feudalism was injurious to agriculture appears from the following considerations. Land in those times was regarded rather as a source of power and influence, than as a means only of subsistence and enjoyment. Great tracts of country

Influence
on agri-
culture.

factionis, ut omnia injuste ablata præter cibum et potum propriis dominis ex integro restituantis, coramque Remensi Ecclesia poenitendo humiliemini, qui sanctam Remensam Ecclesiam reveriti non estis. Ne cessent a vobis hæ maledictiones, scelerum vestrorum persecutrices, quamdiu permanebitis in peccato pervasivis. Amen, Fiat, Fiat." The whole of this curious document, part of which is quoted by Robertson, Charles the Fifth, note 29. F. F., is here copied from Bouquet's *Recueil des Historiens des Gaules et de la France*, tom. x. p. 517.

* Robertson's Charles the Fifth, Z. note 23.

"Several of the principles on which the effects of the Feudal System on the increase and diffusion of wealth are here estimated, are derived from Adam Smith's *Wealth of Nations*.

were vested in the hands of comparatively few possessors; and it has been proved by experience, that great proprietors^{*} are seldom great improvers. As the possession of land gave a man a certain position in society, and had been at first conferred as a reward of service, being, however, rather the medium than the ground of station and privilege, the alienation of estates was contrary to the principle of the Feudal System, and was consequently very much discouraged, if not absolutely forbidden. Fiefs could never be disposed of without the consent of the superior lord, and that consent was not easily procured. Thus land was continued in the same hands, and was not regarded as disposable property. The extensive improvements and inclosures, which were partly the result of the enactment[†] of Henry the Seventh, permitting the alienation of land, are proofs of the injurious consequences of the previous restriction. Farms, too, under the Feudal System, were cultivated by those who had little or no interest in their improvement; for estates occupied by villains and serfs were not tilled at their expense and for their benefit, but virtually at the expense and for the benefit of the proprietors. Another cause of the neglect of agriculture was the depreciation in the value of the produce of land, occasioned by the check which feudalism presented to the rise and growth of towns. For towns, as Adam Smith has clearly shewn, both directly by affording a market to the produce of land, and by many other indirect means,

^{*} "It seldom happens that a great proprietor is a great improver."—*Smith's Wealth of Nations*, book iii. chap. 2.

[†] "4 Henry VII. c. 24. The practice, indeed, of breaking entails by means of a fine and recovery was introduced in the reign of Edward the Fourth, but was not practically law till the statute of Henry the Seventh."—*Hume's History of England*.

greatly tend to promote the spread and improvement of agriculture.

Influence
upon ma-
nufacture
and com-
merce.

The Feudal System, then, prevented the improvement of agriculture, but it still more obstructed the rise and growth of trade. It discouraged, and for a time effectually prevented, the rise of manufactures and commerce, by the low estimation in which they were held, by producing a state of society unfavourable to their growth, and by actually at times checking their progress. A general prejudice, although it may not to any great extent hinder the continuance of any lucrative employment, has a great tendency to obstruct its first advances. The profession of arms was in the feudal ages the sole employment of gentlemen, and all other occupations were regarded as illiberal and degrading. Even an employment in agriculture, an occupation which was, however, for the most part left to villains and to serfs, was preferred to any mercantile transactions. In the language of feudal law, the burgess and the villain are placed upon the same footing; and some immunities^{*} conferred on the inhabitants of towns were condemned, as granting too much licence to slaves. It is strange that Montesquieu^a should have attributed the prejudices against commerce in a great measure to the writings of Aristotle, as taught and expounded by the schoolmen. A contempt for trade, as is evident from ancient as well as from modern authors, was the great characteristic of the Northern nations; a contempt which was greatly encouraged by the feudal institutions.

The state of society, produced by feudalism, was by no means favourable to the progress of commerce. The division

^{*} Du Cange, *voc. Commune*.

^a *Spirit of Laws*, book 20. c. 21.

of a country into separate districts, regulated by local customs, and, in many instances, by local laws, formed a great obstruction to internal communication. Roads were consequently in a bad state; and travelling was so dangerous as to be generally declined, or to be undertaken with reluctance. In France, restrictions were laid upon the transportation of corn from one province to another, and internal trade had to contend almost with the difficulties of foreign commerce. Where, however, internal communication is difficult, it is impossible for the goods of any particular place to enjoy the whole of the home market which a country can afford.

Nothing is more injurious to commercial transactions than a state of society in which property is insecure, and in which the acquisition of wealth is almost certain to expose its possessor to the exactions of the powerful. For although the natural effort which man makes for the bettering of his condition cannot be prevented by insecurity, yet that effort is greatly discouraged when men are not certain of realizing and enjoying their profits. That this was the case in the feudal ages is shewn by the frequent exactions upon the Jews, for some time the only class extensively engaged in mercantile dealings. The citizens, though not precisely slaves, were in such a state of insecurity, and so liable to the demands of their lords, that a writer^b of the present day has said, that they were neither in a state of freedom nor of slavery. Tallage, including occasional demands for provisions and other contributions, was claimed by the lords as a matter of right and usage. That these exactions were arbitrary and uncertain appears from the language^c of

^b Guizot, *Civilization of Europe*.

^c *Communio autem novum ac pessimum nomen sic se habet, ut capite censi omnes solitum servitutis debitum semel in anno solvant, et si quid*

Guibert, abbot of Nugent, who strongly condemns, as an invasion upon the rights of the lords, charters which fixed the amount of tribute to be paid by the citizens. Each town was thus subject to the exactions of the lord under whose direction it was placed. Even in later times, the precautions taken by the commercial classes shew the dangers to which they were liable. Inland towns were fortified and guarded in time of peace, and even the houses of citizens were constructed rather with a view to defence than to use and convenience.

To check as much as possible the increase of trade, and the consequent growth of towns, was also part of the policy of the feudal lords. Each town was situated in some domain, and was, like the rest of the territories, subject to the control of its lord, who viewed with jealousy the gradual growth in his dominions of communities having a strong tendency to independence. The inhabitants of towns, therefore, seem to have been studiously kept in subjection, and to have been considered and treated as little better than slaves. The charter to London itself, granted by William the Conqueror, contains little more than a declaration^d that the citizens should not be treated as slaves. Freedom appears to have been the great privilege conferred by charters; for, as we learn from Du Cange, they were anciently called "liberties."^e This progress to freedom was slow, and was often obstructed by the fears and prejudices of the great lords. Limitations were laid upon buying and

*contra jura deliquerint, pensione legali emendent; ceteræ censuum exacti-
ones, quæ servis infligi solent, omnimodis vacent. Du Cange in voc. Com-
mune.*

^d Hume's *History of England*, vol. ii. p. 118.

^e *Libertates.* Du Cange in *voc. Commune.*

selling; and that these were, in certain cases, either prohibited or discountenanced, appears from the privileges^f granted to certain towns. Although the Roman municipalities are said to have possessed a degree of independence, it was some time before any privileges were conferred upon the feudal towns. The first corporation in France was sixty years after the conquest of England; and no mention is found of any charter having been granted in Normandy till the beginning of the thirteenth century. Charters were at first always granted by the crown, although there are instances of their having been bestowed, though but rarely, by the feudal lords. But mercantile transactions must exist to a certain extent, and if not exercised by natives, are usually carried on by others. So that by these various discouragements trade was taken out of the hands of the citizens of the feudal countries, and was transacted either by Jews or by enterprising foreigners. This is shewn by the great wealth and profits of the Jews; and, among many other instances, by the settlement of the Lombard^g bankers in London. The invention of bills of exchange, in a great measure, protected foreigners from the exactions to which citizens were subject; and not being in their own country, they were little affected either by the contempt with which their employments were regarded, or by the loss of privileges, with which those employments were attended. In no country where the Feudal System prevailed, and where its natural tendencies were not counteracted, did commerce and manufactures exist to any great extent. It was only on the subversion of that system, and

^f Hume's History of England, vol. ii. Appen. 2.

^g "All foreign commodities were brought into England by the Lombard and Hanseatic merchants."—*Robertson's Charles V.*, G. G. note 30.

by assisting in its subversion, that commercial enterprise commenced its career. Commerce, when at length freed from the restraints against which it had so long struggled, has so wonderfully increased, and developed the resources of the countries in which it has prevailed, and has been, and is still, so mighty an instrument in the progress of civilization, that to have so long kept down its growth, and, in some cases, to have stifled its existence, cannot but be regarded as a great disadvantage of the Feudal System.

Effect on
the social
state of the
population.

The most important effect of any political institution is, however, after all, its influence upon the social condition of the population. By social condition is here meant, not only their condition as regards political privileges, but also their physical, their moral, and intellectual state. On these important points of information, history is too often silent; and in this, as in many other cases, the consideration of the probable results of known institutions, and of few and scattered notices of facts, is the only means of ascertaining the condition of the mass of the population. Only an outline can therefore be given of what appears to have been the general condition of the people in feudal times. A feudal country contained but a comparatively small number of those who were independent of any authority but that of the state; and only the immediate tenants of the Crown were in a state of freedom similar to the position of a citizen in modern countries. The subfeudatories were in a condition of subjection to powerful persons; and are so styled in the language^b of the times. But whatever was the state of the feudal tenants, it was a state of freedom compared with the condition of the lower classes. The physical condition of these classes seems, indeed, to have been good; for we do

^b Homines potestates.

not, except from particular causes, find any mention of general distress. And this, considering the physical state of the lower orders in many civilized countries, must, in itself, be regarded as a great advantage. But they were, in a great measure, in a state of slavery; and slaves are commonly supplied with the necessaries of life. It must also be considered, that a state of complete subjection, which affords a means of supplying mere animal wants, naturally produces that apathy, and that insensibility to the value of freedom, which are the worst consequences of slavery. For it is often only by the pressure of actual want that classes of men, as well as individuals, are roused to exertion, and obtain for themselves far higher objects than the mere subsistence which they at first sought. When it is stated, that the condition of the lower orders under the Feudal System was, in a great measure, a condition of slavery, it must not be supposed that the establishment of slavery is here attributed to that system: for servitude existed in the Roman Empire till its subversion; and would, in all probability, to a certain extent have continued among the barbarians, if feudalism had not become the form of society. What is affirmed, and will be endeavoured to be shewn, is, that feudalism tended to perpetuate, and did greatly increase the subjection of the lower orders. The northern nations, immediately after their invasion, seem to have been all vassals or freemen. When the allodial proprietors had gradually become vassals, and the feudal had thus absorbed the political form of society, we find the rustic population in a condition of subjection, and the inhabitants of the towns in a state of dependence little better than slavery. It is true that the rustic population were partly composed of the inhabitants of the invaded countries; but

it is also true, that these comprehended as well some of the conquering nations. ¹ Freeman and gentleman were synonymous terms; and in the barbarian codes, ² it appears that artisans were denominated as slaves; and that without permission from their masters they could not follow their trades. The strong tendency of the Feudal System to promote slavery has been mentioned by some writers ¹ of the present day; but it may be as well briefly to state how it had that tendency. In the division of land, part was reserved by each lord for his own use and maintenance, and was called his "domain."^m These domains were cultivated by husbandmen, who were eventually reduced to a state little better than that of slavery. The villains, or serfs, were completely in the power of their lord, and, like other slaves, were regarded as parts of the disposable property of the estate. As from the insecurity of society, and the oppression of the powerful, the allodial proprietor had become the feudal vassal, so also, from like causes, the freeman became the slave. Freemen gave themselves up to servitude; parents delivered up their children to the same subjection; and so common were these surrenders of liberty, that they were indicated by a particular term.ⁿ Vassals who could not pay the fine^o for neglect of attendance on military expeditions, were condemned to temporary, and even to perpetual servitude. Those who could not discharge the judicial fines were also adjudged to the same state. So alarming, indeed, did the progress of slavery become, that its pre-

¹ Hume's History of England, vol. ii. p. 118.

² Lex Burgundionum, tit. 21, 2. Servus ferrarius, servus argentarius, &c.

¹ On the tendency of the Feudal System to enslave the rustic population. Guizot's Civilization of France, cap. 38.

^m Spelman on Parliaments.

ⁿ Obnoxio. Du Cange, in voc.

^o Herebannum. Du Cange, in voc.

vention was made the subject of special laws.^p The inhabitants of the towns were in a state which can be neither called slavery nor freedom. Apathy,^q timidity, and humiliation, arising from subjection and exposure to the arbitrary power of many, seem, in the mass of the population, to have taken the place of that boldness and that independence of spirit which are the great characteristics of the German races. The wretched state of the lower orders under the Feudal System, though it has had few, if any, historians, has not left itself altogether unattested. Even in those times, the masses of the population, from time to time, amid disorder and rebellion, entered protests—ineffectual indeed, but still protests—against the arbitrary oppression of those to whom they were subject. The peasants, in the rising of the Jacquerie,^r professed to seek no acquisition of privileges; nor did they even make any definite complaint. They were animated only by a spirit of reckless vengeance; and to them it seemed that their grievances were too numerous to be specified in particular charges. Determined, as they proclaimed abroad, to extirpate from the earth that nobility to whom their wretched condition appeared attributable, they shewed the reality of their detestation by cruelties, which nothing but feelings of

^p These voluntary surrenders of liberty, the results partly of express feudal provisions, partly of the state of society produced by the Feudal System, are repeatedly mentioned in the barbarian codes. Many laws were also made implicitly authorizing this practice, and directing the mode of its procedure: for instance, *Legis Frisionum*, cap. 11. *De Lito*. Others, however, are apparently framed with a view to discourage the growth of slavery. Thus, by *Legis Longobardorum*, tit. xxxiv. 3. the wife and children of a man who gave himself up into servitude were not also to become slaves.

^q The debased spirit of the times is implied, among other indications, by the practice of giving up personal liberty to avoid the payment of certain dues. *Legis Long.* tit. 19.

^r Sismondi *Histoire de Français*, vol. x. p. 530. Froissart, tom. iii. c. 285.

savage revenge could have suggested, and which are only to be compared to the massacres in which they were themselves destroyed or dispersed. The hatred with which the Feudal System has been more or less regarded amongst the lower orders, is a certain proof of the judgment passed upon it by those who have felt its influence; and is, in some measure, an indication of its real effects. This feeling of hatred, like all feelings of the kind, is excited by immediate ill effects, and is scarcely to be allayed by the consideration of unperceived and remote advantages. This seems to suggest a reason why France,* which has so lately freed herself from feudal control, regards the Feudal System with greater hatred than does England, which has been much longer released from its influence. A people's detestation is stamped on their language;† in which crimes are denoted by words used at first to indicate simple feudal relations; and is also implied in the evident rancour and prejudice with which some writers have described the Feudal System.

Feudal incidents.

To these effects ought, perhaps, to be added the oppressive character of the imposts which, in the decline of feudalism, were substituted for military service. They are not here considered in detail, because they appear to have been abuses; yet are they just noticed, because they seem to have necessarily accompanied the transition of society from the Feudal System. It must, however, be recollected, that

* Hallam's Middle Ages, c. xi. part 11.

† Nothing, I think, proves more strongly the detestation in which the people of this country held the feudal oppression, than that the word *vassal*, which once signified a feudal tenant, or grantee of land, is now synonymous to slave: and that the word *villain*, which once meant only an innocent inoffensive bondsman, has kept its relative distance, and denotes a person destitute of every moral and honourable principle, and is become one of the most opprobrious terms in the English language. Note to Blackstone's Commentaries, book ii 4.

the feudal tenants were always, to a certain extent, liable to imposts, the arbitrary character of which seems to have been considered a great grievance; for one of the principal concessions in Magna Charta," is the commutation of uncertain imposts for stipulated payments. Feudal incidents were a great check to the improvement of property, and had many other injurious effects.

The advantages of the Feudal System, although some of them have been casually noticed in the course of the preceding observations, have not as yet received a separate consideration. In estimating these advantages, we must be especially cautious against being led away from fact, by imagining to ourselves the results of feudalism, considered as an ideal system. For it seems to be the general tendency of mankind, while they suppose their own age to be superior in most other respects, yet to attribute to past ages an excellence in moral feeling and duty. And, though we should be careful of denying to past times that perfection which seems to us, possibly from the degeneracy of our own age, inconsistent with human nature; yet when there appears a general presumption against any view, it is more especially necessary to examine the authority upon which it rests. Many somewhat romantic views are taken of the Feudal System while in its most perfect state. Accounts are given of lords and vassals emulating each other in mutual acts of friendship, of universal happiness, benevolence, and liberty; of men who acted not with views of utility, but with high and disinterested notions. Writers, however, who regard feudalism in so favourable a light, seldom appeal to historical testimony. A striking instance of this

Some advantages separately considered

* For instance, in the second article of Magna Charta, the amount of reliefs is fixed, for an Earl, 100*l.*, for a Knight, 100*s.*

kind of illusion is afforded in the very favourable view taken of the effects of the feudal relations in France, by a historical critic of ability,^v only a few years before the revolution; to which view subsequent history is itself the best comment.

Still, whatever may have been the other effects of the Feudal System, and however its influence as a school for moral discipline may have been exaggerated, it was undoubtedly an advantage that it presented, to a certain extent, scope for the exertion of feelings of mutual and honourable obligation. So little tendency have many human institutions to improve the heart, that the Feudal System is not perhaps to be judged by an absolute standard. Many of its advantages appear, however, to have been somewhat overrated. It effected, indeed, at first, a bond of union, founded upon mutual interest; for all held their lands by the same charter of conquest. Yet its chief use was against the attack of a common enemy; for internally it gradually produced separation and discord. It must not be regarded as an advantage in any system, that it remedied evils which it created itself. Thus it cannot be considered an advantage in the Feudal System, that, by substituting the slight dependence of vassalage for legitimate subjection to a sovereign, it prevented the Dukes of Guienne^x and Counts of Toulouse from throwing off all connection with the crown of France. For their power and comparative independence, and the consequent dangers of disunion, were in a great measure the effects of the Feudal

^v Allusion is here made to an observation of Boswell, in 1773. "I mentioned the happiness of the French in their subordination by the reciprocal benevolence and attachment between the great and those in lower rank."—*Boswells Life of Johnson*, vol. ii. 340. This is the remark of a man who has studied the Feudal System, vol. 191.

^x The view here opposed occurs in "Hallam's Middle Ages," c. ii. part 2.

System itself. It fostered in itself, among a limited number of its members, those feelings of independence and energy which form the most important elements in the organization of modern society. Yet these feelings were by the structure of the Feudal System so entertained, as not to develop themselves in the community at large, but to be productive of private war, and of individual resistance to authority. The influence of feudalism in raising the character of woman, so important a feature in European civilization, has been by a writer⁷ of the present day somewhat exaggerated. For this writer attributes this important change almost entirely to feudalism, and rejects, as a mere chimera, any attempt to trace it to German manners and feelings. He affirms, that the accounts of the state of women in Germany given by Cæsar and by Tacitus may be paralleled by any description of barbarian society. But whoever reads of the privileges of women in Germany, of the respect, and almost adoration,⁸ with which they are said to have been regarded, and of their having been occasionally invested with the sovereignty,⁹ must perceive something very different from most of the accounts given of other uncivilized countries. He must admit, that though the Feudal System continued, regulated, and by some of its effects raised the respect for the female character, that still the origin of that respect is to be traced to the feelings and habits of ancient Germany. But the advantages of the Feudal System consist rather of distant results than of immediate effects. So many of the manners, customs, and

⁷ Guizot, *Civilization of Europe. Feudal System.*

⁸ Tac. German 8. *Inesse quinetiam sanctum aliquid et providum putant nec aut concilia earum aspernantur aut responsa negligunt.*

⁹ Germania, 45. *Historiarum, lib. 4. Valeda.*

institutions of modern society have been directly or indirectly occasioned by the Feudal System, that it would be vain to attempt to enumerate them. Although the germs of nobility appear in the barbarian customs, it is to feudalism that we in this country owe our present aristocracy and the House of Lords. The law of primogeniture is another relic of feudalism, which, though injurious to the diffusion of wealth, must be valued as preventing a disputed succession to the crown, and as keeping up the dignity of ancient families. From feudal sentiments have originated that gentlemanly feeling and that politeness which are the characteristics of modern social intercourse. A writer^b of the present day ascribes to it the existence, in modern times, of that personal reverence to the sovereign which we denominate loyalty. And though feudalism, when prevalent, did not so much tend to the formation of that sentiment, as to the production of a local attachment and respect paid to the immediate superior, the feelings which that respect called into existence may have gradually contributed to the formation of loyalty. These are the advantages commonly and justly attributed to the Feudal System, and from this comparison of its advantages and disadvantages a general opinion must now be passed upon its merits.

General
view of its
effects on
its own
times.

As having proceeded eventually upon wrong principles, as a defective form of society, as having been injurious to the community in its effects upon national defence, upon the administration of justice, upon the increase and diffusion of wealth, and upon the social state of the population, the Feudal System must be pronounced to have been disadvantageous. Yet, as having given scope for the exercise of honourable feelings—as having presented a bond of union in

^b Hallam, Middle Ages, chap. ii. part 2.

the first stages of barbarian society, as having fostered liberty and independence, though in a manner prejudicial to society, and in its results, not on its own times, but on after ages—it appears to have been advantageous. Although, therefore, the Feudal System, like many other great human institutions, is not without its merits,—and merits, too, of no ordinary character,—it must still, when viewed as a whole, be determined to have been defective, and disadvantageous to its own times.

The view now taken may appear to some obvious, and to others unfair. It may be urged, that the Feudal System, viewed in itself, is obviously defective, and that therefore the chief point of consideration is its effect upon the progress of society; and it may also be stated, that it is unfair to regard feudalism separately, without taking into account its influence upon general civilization. Still, if no new result be obtained, it is of great importance to view the Feudal System for ourselves; to consider whether its advantages and disadvantages have been misrepresented or overrated; and to examine the grounds on which our judgment rests. And as an institution may be injurious to its own times, and yet advantageous to the progress of society, it must also be viewed without reference to that progress: for the historical critic owes a duty to past, as well as to present times. “He is,” to use the words of an able writer,^c “cast back as it were into former ages; he lives with the men who lived before him;” and he violates a sacred obligation if he omits to consider in themselves the effects, for good or for evil, of an institution upon its own times. It is also necessary to take this view of an institution, in order to perceive in what manner it affected the progress of society—

^c Bolingbroke's Study of History, letter ii.

whether directly, as a good in itself; or indirectly, as an evil.

The Feudal System considered in reference to general civilisation.

The most important part of the view of the Feudal System must now be considered; the influence it may have exerted upon the progress and developement of society. For this mode of regarding the Feudal System is of the utmost interest to ourselves, and is the view now commonly taken by writers on the subject; yet is it at the same time the most difficult: for we ourselves are engaged on the same field of action; and the present state of things forms part of that progression of society which it is necessary to estimate.

Difficulties.

The past we see but imperfectly, of the present we are prejudiced judges; and perhaps with the most perfect knowledge of the past and of the present, we should find much cause for perplexity, unless we could see the whole social scheme laid before us. For we must not fall into the error of some writers, who seem, almost insensible to themselves, to have regarded the present state of society as the point in which all the tendencies of past events converge. And although undoubtedly every thing is eventually for the best; yet we must not, in considering the progress of society, always expect to perceive in what particular manner each event or institution tended to the general good. For those who set out with the notion, may assent to any plausible views of the manner in which each event and institution promoted the amelioration of society, without examining whether they rest upon sufficient grounds. It is one thing to deny the general progress of society to eventual good, another to object to any special statement of the manner in which that progress is affirmed to have been made. And we shall also leave out of our view important considerations, and shall not discharge the duty of

Cautions.

historical critics, who are required to judge men as well as events, if we suppose, as some appear practically to suppose, that over the progress of society men themselves have little control. For a nation, as well as an individual, has a life, and a certain course of action; and for these, one as well as the other, is responsible. That societies, like individuals, may obstruct or retard, or even prevent advantages, and may bring upon themselves great evils, is a lesson taught us by sacred history; in which are seen not events only, but also their causes and connection. Before viewing the position of the Feudal System in the great scheme of society, some proposed mode of estimating that position must be first noticed. It has been said, that we may be assisted in settling this question, by comparing the history of society in feudal countries, after the dissolution of ancient civilization, with the like history in those parts of Europe which feudalism never reached; France or England, for instance, with Denmark or Sweden. Now the merits of an institution cannot be fairly estimated by comparing the state of two countries, one of which has and the other has not that institution, unless those countries be similar in general character, and unless the points in which they differ be taken into account. Now Denmark and Sweden are very different from France and England; the former had not, the latter had, what may be called the Roman elements of civilization, and became acquainted with Roman laws and institutions. The Barbarians who invaded England and France entered different countries and different climates, and came into communication with different races. Those more northern hordes, who took possession of Denmark and Sweden, settled in countries with manners and habits in a great measure similar to their own.

How far an
institution
is good
which is
adapted to
its own
times.

It is commonly said, that the influence of an institution upon the progress of society cannot be properly estimated, without taking into account the social state at the period of its existence; and that an institution is good which is adapted to its own times. This is, indeed, to a certain extent true, though the statement must be qualified by some limitations. For admitting that institutions depend upon circumstances, it is still the duty of historical critics to point out their faults, and to compare them with more excellent institutions. Thus the great practical philosopher of antiquity, though he describes various forms of government and observes how each is adapted to the circumstances of society, yet at the same time notices their faults, and compares them with what he deemed the perfect form of polity. When institutions are said to be adapted to the condition of society in which they exist, it must still be remembered, that as the state of society may cause the establishment of certain institutions, so also may those institutions influence the state of society. ^d“We are, in a great measure, what our institution makes us;” and it is a paradox in politics that men are only fit for good institutions, by having good institutions conferred upon them. What is here meant, is not that good institutions ought to be hastily introduced; though even then, as the experiment has been rarely tried by competent authority, we know not what good effects might not be produced, by acting on implicit faith in the capability of human improvement, and by allowing true principles their free course. What is here intended to be inferred is, that it is not sufficient that an institution be merely suited to its own times. So that for a political system, even in a relative sense, to be good,

^d Southey's Colloquies.

it must be shewn that it has in itself a principle of progression and amelioration; and that by at once giving way to and promoting improvement, it either advances, or certainly does not oppose, the civilization of society. And independently of a reference to particular times, there are certain principles of a permanent and unvarying nature by which every institution must be estimated. There is a certain general character, and there are certain effects which must be required in every system, whatever be the circumstances of the times at which it prevailed. Some of the general and essential principles of the Feudal System have been particularly dwelt upon, and its character of immobility, so to speak, and its apparent way of any tendency to improvement, have been especially noticed; because the nature of these principles, and of its general character, forms the safest standard by which to estimate any political institution. For we may more easily be mistaken in viewing the actual position and influence of an institution in society, and many circumstances may have hindered its full and natural development. This standard is mentioned by Burke,* and cannot be better expressed than in his own words. "When any political institution is praised, in spite of great and prominent faults of every kind, and in all its parts, it must be supposed to have something excellent in its fundamental principles. It must be shewn that it is right, though imperfect; that it is not only by possibility susceptible of improvement, but that it contains in it a principle tending to its melioration."

The effects of the Feudal System on the advances of civilization have been somewhat misrepresented and exaggerated. Only the most prominent of these will be

Alleged advantages of feudalism.

* Appeal from the New to the Old Whigs.

As a check
to anarchy.

considered : its alleged advantages as a check to anarchy, as a limitation to the power of the crown, and as having been productive of sentiments and habits unknown in ancient times. It has been said, that the state of anarchy previous to the eleventh century is not to be attributed to feudalism ; and that it was the cause, rather than the effect, of the general establishment of feudal tenures. And it has therefore been stated, that the Feudal System must be estimated by a comparison between the state of society in the ninth, and in the eleventh and subsequent centuries. Now feudalism, although it was more consolidated into a system about the eleventh century, had, in a less united form, long previously existed, and seems to have been one of the chief causes of the anarchy and disorder which prevailed. Its consolidation was undoubtedly far preferable to the form in which it previously existed, as it combined the separate parts, as far as they were capable of combination, and tended to suppress, to a certain extent, disorder and anarchy. Yet it would be a mistake, to suppose that the disorders which the Feudal System partly repressed, were not in a great measure produced by itself. It must also be remembered, that it still tended to encourage civil disunion and private war. And though the good effects of the Feudal System must be taken into account, it ought to be observed, that a bad political system, which cannot long be tolerated, is sometimes more conducive to the permanent interest of society, than an institution which, by its advantages, tends to perpetuate its many disadvantages.

As a limitation to the
power of
the crown.

The utility of the Feudal System as a check to the power of the crown, has also been much exaggerated.

Without it, some have stated that in Europe, as in Asia, all

right and privilege would have been swept away by the desolating hand of power. Now it is unfair to compare the inhabitants of Asia with the nations of Western Europe, for all allow that their characters are so very different, that there appears little reason to dread in Europe any thing like Eastern despotism. Some great central power was necessary to consolidate the divided energies of the state; and the Feudal System, by resisting and preventing the efficiency of that power, seems to have obstructed the progress of civilization. The formation of such a power appears to have been the probation through which the nations of Europe must have passed. It is difficult to judge what would have been the general result, if certain events had not happened; yet it seems that it is to the great power of the monarchs of the fifteenth and sixteenth centuries that we must attribute that national union which at present exists. That the state of society required great consolidation, appears to have been indicated often previously to that period, by the national prosperity consequent upon the developement of the resources of a people by the rule of a powerful prince. But it may be asked, what would have been the effect upon society, if, when the people were poor and disunited, the Feudal System had not presented a barrier against the power of the crown? The simple answer to this is, that the poverty and disunion of the mass of the population arose in a great measure from the Feudal System itself. Some time after the fall of the Roman Empire, we find mention of large bodies of allodial proprietors imbued with all the spirit of Northern freedom, and corresponding in some measure to our present middle classes. That these freeholders were eventually reduced to feudal subordination, and that the

great body of the population gradually sank into slavery, or into a state little better than slavery, has been already pointed out. So that the Feudal System, while it prevented the efficiency of the crown, did not tend to animate with feelings of freedom the community at large. It must be particularly remarked, that at the first establishment of the Feudal System, as far as its beginning can be traced, the people were possessed with that spirit of liberty which is the peculiar characteristic of the Northern race. It must also be observed, that when feudalism began to decay, it left the people in such a helpless condition, that absolute monarchy was almost the immediate consequence. In some countries these monarchies have continued, in others they have become limited. But it must be especially noticed, that the privileges of the subject have been asserted and recovered, not by the moral influence of a free spirit and of public opinion, but by events as reprehensible in their character, as often disastrous in their effects. It is only to the great and violent revolutions which have agitated the frame of society, that some countries in Europe owe the liberty which they possess; and where such revolutions have not existed, we find nothing but absolute rule and unlimited power on the part of the crown. These revolutions are but a small test of the real spirit of freedom in a people, as they are often more violent in proportion to the rigours of previous control. It is a sad spectacle to see Europe returning to her former state of liberty amid struggles, such as often involve in ruin, one as well as the other of the two contending parties. And much as we may appreciate its other advantages, we cannot but condemn an institution from which, as far as we see, the necessity of such a transition arose.

As having been the cause, to a certain extent, of the sentiment of honour, and as having fostered those feelings and habits which are the great characteristics of modern society, the Feudal System cannot but be valued. Yet, though fendalism may have maintained these notions, it must be remembered that their origin is in a great measure to be traced to the spirit and disposition of the German nations. Much too must be attributed to the beneficial influence of Christianity, which cultivated and recalled to their proper and natural objects, the rude though noble feelings of barbarian character. Still it would be captious to deny to the Feudal System the great merit of having handed down to modern times, sentiments and manners which are a great means of refining the understanding and of purifying the heart, and which are in many respects the outward show of that which Christianity is the inward reality.

As productive of certain sentiments and habits.

Though an estimate of the merits of an institution, derived from the nature of its concomitant circumstances, ought generally to be regarded with distrust; yet when a connection may be pointed out between them, it is certainly legitimate. It is remarkable, that while feudalism prevailed, a torpor hung over literature, and the spirit of enterprise and discovery were dormant. The decay of the Feudal System was followed by such a burst of combined energy and invention, as has rarely, if ever, been paralleled in the history of the world. Let us look for a moment at the ages of enterprise and discovery, and examine whether their energy may not be traced to some cause. Feudalism had previously exercised a long control, dividing a country into separate, and almost independent parts, and preventing that combination of feelings and interests which is the great

Beneficial consequences of the decay of feudalism.

constituent of nationality. In the fifteenth, and subsequent centuries, powerful monarchs had begun to unite kingdoms together, and to call into existence national, as distinguished from local, feelings and interests. Hence arose many wants which had never been felt before. But it seems to be a general principle in nature, that the existence of a want inevitably produces its supply. So practical, if the expression may be used, are the constitution of the world and the inventive powers of man, that their resources may remain, and have remained, for ages unknown and unemployed, and are only called into existence the moment a demand for them is made. To this, rather than to mere accident, or to some inexplicable cause, may be attributed the great discoveries of the fifteenth and of the following centuries. The spirit of commercial enterprise had been gradually liberated from a long service to feudal control, and required new fields for exertion. She found them, because she sought them, beyond the southern coasts of the old, and on the shores of a new world. The principle of centralization, so long opposed by the influence and by the very existence of the Feudal System, was, to a great extent, established by powerful monarchs. Local associations were broken up; each country began to entertain the feelings, not of a number of dependencies, but of one united nation. Communication and intercourse were therefore necessary. This want was, in a great measure, supplied by the invention of printing, the name of which is its best eulogy. It is a remarkable fact, that nearly all the great discoveries of the period have a direct tendency to promote the intercourse and multiply the means of communication between mankind. Thus, to mention only one other instance, the invention of engraving in copper, multiplied and diffused

these masterpieces of art which are accessible but to few. It is quite true, that these discoveries were afterwards, in their turn, to an almost incalculable extent, the causes of modern civilization ; but it is also true, that they were themselves the effects of the demand for internal communication, created by the rise of an efficient central power, and of a combined national feeling.

We have now considered the influence of the Feudal System on the progress of society, and the various ways in which that influence is said to have been exerted. And in that conflict, which is always going on in society, between good and evil, between improvement and degeneracy, the Feudal System seems to have sided rather with the latter than with the former ; and, while productive of much present evil, appears to have long retarded the progress of civilization. Such a conflict presented to some philosophers of antiquity a problem, which they could only solve by supposing the existence of two several principles, one of good and the other of evil, always struggling for the mastery, and alternately victorious. Every thing, however, under the regulation of a higher power, is tending to eventual good. Thus, in the Feudal System, good has been educed from ill ; and in that outline of the scheme of society which history presents, feudalism appears to have occupied a certain place, and to have had a certain function. It departed, after it had produced beneficial effects, which we still feel in the present state of society. Yet how the eventual good it occasioned compensated for all the evil it produced, is as yet unknown ; and perhaps will continue so till the whole scheme of society is fully developed. Geologists state, that the earth's surface has been subject to many convulsions, and, if the term may be used, to

General
view of the
influence of
the Feudal
System on
the pro-
gress of
society.

many natural evils. Yet they point out how the earthquake and volcano have produced their good effects—how the barren waste of waters has subsided, and left behind it the rich soil of the fertile valley. So political convulsions and institutions, prejudicial to their own times, and apparently productive of more evil than good, have contributed to form the present state of society. Still it is the duty of historical critics to distinguish, by a broad line of demarcation, the evil from the good. Without such a distinction no historical estimate whatever can be formed of past times.

The ultimate conclusion then is, that the advantages of the Feudal System, when considered in itself, do not compensate for its disadvantages. And in that vast march of events, commencing, as is commonly said, at the dissolution of the Roman Empire, and advancing to a destination as yet unknown, it cannot be discerned that the essential tendency of feudalism was to promote the progress of civilization. The Feudal System had indeed its merits, but it often obstructed and retarded the progress of society; and it was not till after its decay that any great advances in social improvements took place. Yet good has come out of evil; and by a combination of circumstances, not to be expected in the ordinary course of events, many of the results of feudalism have been beneficial to after-times. A general view has now been taken of the Feudal System. Yet questions of the greatest importance force themselves upon us, and demand our notice, as they bear materially upon the present subject. What is the character of the present age, as distinguished from that of past times? Whither does the present state of society seem to tend? Have we not been estimating feudal times by the

state of a single period, by the standard of our own age? These are questions which can be noticed only, but cannot be answered. It is at once admitted that we have judged the Feudal System by the standard of our own times, and by its tendency to produce, or not to produce, the present state of society. Yet we have used our own social state as a standard, from no prejudice in its favour, but because it appears to possess a real superiority. Let us contrast, for a moment, feudal times with our own. Let us view a people who can scarcely be said to have a national life, with some free, yet many slaves, divided against themselves, and incapable, but at times, of combining their power and resources in the pursuit of common objects. Where, however, there is little power and opportunity, there is small responsibility, and little fear of abuse. Let us regard, on the other hand, a people whose national life is free, and has full scope for exertion, all of whom are in a condition of personal liberty; a people in a state of union, and acting in their political existence with the combined power and resources of the whole community. Here is much of power; it may almost be said, much of license; but as the power and opportunity are great, so also is there great danger of their perversion. Which of these conditions is preferable—a state of comparative security, but of weakness and restraint, or a state of national strength and liberty, with some hazard of abuse? This is a problem, about which many good and great men have doubted, and the solution of which seems to rest with the present progress of society. The conduct of the present, and that of succeeding generations, will shew whether a community can be safely trusted with liberty and extensive political power, or whether these are privileges which man cannot but pervert. “Our own age

is, indeed, but as a day in the great cycle of society ; but a day that has been affected by those which went before, and that must affect those which are to follow.”¹ When we reflect upon past times, “ we will not deplore ”—to use the words of a great historical critic—“ we will not deplore that all have lost many an unreplaced and irreplaceable treasure. We will not ask whether the richest crop of good which after-ages may have reaped can compensate for the sufferings of down-trodden generations ! ” Yet are we placed in a state of awful responsibility ; for it seems that it is to the evils and sufferings of the past that we owe our privileges and opportunities. The present position of society is not so much one of actual advantage,—for on some moral and social points we appear to be inferior to past ages,—as of power, opportunity, and scope for exertion. Political privileges ought not, indeed, to be lightly regarded : for the efforts of mankind to gain them attest their value ; and, perhaps, they are the most that a government can bestow. Yet are they, after all, only means to an end. These remarks are applicable to the condition of society in parts of Western Europe ; they are peculiarly applicable to us—the great English nation.

Our state is one of unusual responsibility, and of singular historical interest. We have cast away many of the restraints which bound us ; whether for good or for evil, remains yet to be proved. To us much has been given ; and of us, assuredly, will much be required. We may abuse our great national strength ; we may imprint, perchance, a lasting blot on the character of that liberty which we enjoy ; so that, from our example, it may be said in after-ages, that a nation cannot be safely entrusted with large political pri-

¹ Similar expressions in Bolingbroke. Patriot King, page 82.

vilages. Or we may use these powers as means to improve our moral and social condition, and, by our influence, spread over the globe the effects of our own civilization, "as far as waters roll, or as winds can waft them."

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